

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:17-cv-74-RJC-DSC**

BARRY HARDIN,

Plaintiff,

vs.

NANCY A. BERRYHILL,

Acting Commissioner of Social Security,

Defendant.

ORDER

THIS MATTER is before the Court on Plaintiff's Motion to Proceed in Forma Pauperis.¹
(Doc. No. 2).

In this matter, Plaintiff seeks review of a final determination of the Commissioner of Social Security denying Plaintiff's claim for a period of disability and disability insurance benefits. (Doc. No. 1). Plaintiff's affidavit shows that Plaintiff has had no income during the past twelve months, and he expects to receive no income next month. (Doc. No. 2 at 1-2). Plaintiff reports that his spouse has had a monthly income of \$2800 during the past twelve months, and she expects to receive the same next month. (Id. at 2). Plaintiff reports total monthly household expenses of \$2450.² (Id. at 5). Plaintiff reports that he has no cash and no

¹ Plaintiff's motion to proceed in forma pauperis applies only to the filing and service fees, as Plaintiff is represented by counsel.

² Plaintiff reports an additional \$175 in monthly expenses, but he states that he is not actually paying these amounts yet—rather, they are owed amounts and he expects to set up payment for them in the future. See (Doc. No. 2 at 4). Relevant monthly expenses are those that are actually paid out of the household each month.

funds in any financial institutions. (Id. at 2). Plaintiff reports that his spouse has \$124 in a checking account and \$500 in a savings account. (Id.). Finally, Plaintiff states, “My wife is the only income source—we are living paycheck to paycheck, no extra money.” (Id. at 5).

Plaintiff’s current monthly household income exceeds monthly household expenses by \$350. The Court finds that Plaintiff is able to pay at least a portion of the filing fee each month until the fee is paid in full. The Court will, therefore, allow Plaintiff to pay monthly installments of \$25 until the fee is paid in full.

IT IS, THEREFORE, ORDERED that:

- (1) Plaintiff’s Motion to Proceed in Forma Pauperis, (Doc. No. 2), is **DENIED** to the extent that Plaintiff shall pay the filing fee in monthly installments of \$25 until the fee is paid in full. Plaintiff shall pay the initial \$25 installment to the Clerk’s office within ten days of this Order.
- (2) The Clerk of Court is directed to notify the United States Marshal who, pursuant to FED. R. CIV. P. 4(c)(3), shall serve process upon Defendant, in accordance with FED. R. CIV. P. 4(i)(1) and (2), and/or as directed by Plaintiff through Plaintiff’s counsel. All costs of service shall be advanced by the United States. Any recovery in this action will be subject to payment of fees and costs, including service of process fees and the \$400.00 filing fee.

Signed: May 2, 2017



Robert J. Conrad, Jr.
United States District Judge

